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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/628,831

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Michael K. Hargens

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EXAMINER

BOUTAH, ALINA A

ART UNIT

PAPER NUMBER

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MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/628,831	<b>Applicant(s)</b> HARGENS ET AL.	
	<b>Examiner</b> ALINA N. BOUTAH	<b>Art Unit</b> 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 100-119 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 100-119 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In view of the Pre-Appeal Brief conference decision on January 22, 2008, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 110-119 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The “system” as claimed lacks evidence of storage on a medium which enables any underlying functionality to occur. The elements listed in the claims (first web-site, second web-site and account server) are not necessarily hardware elements. Instead, one

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can reasonably interpret them as software. Software, per se, is non-statutory. See M.P.E.P. 2601.1 Section I, which states, "Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material."

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 100-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPAP 2002/0046255 issued to Moore et al. (hereinafter referred to as Moore) in view of USPN 6,587,867 issued to Miller et al. (hereinafter referred to as Miller).

Regarding claim 100, Moore teaches a method of providing communication accounts to end-users from a plurality of web sites, the method comprising:

in a first one of the web-sites, interacting with a first one of the end-users over the internet, and in response, transferring a first communication account request over the internet to an account server [0010; 0016];

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selecting a first account code for the first end-user in response to validating the first web site, and transferring the first account code over the internet to the first web site [0006; 0031-0032; 0038];

in the first web-site, transferring the first account code over the internet to the first end-user wherein the first end user uses the first account code to obtain a first communication service from a communication service provider [figures 2 and 3; 0012; 0014; 0015; 0017] .

Although Moore does not explicitly teach a second one of the web-sites interacting with second one of the end-users, he teaches providing communication accounts to end-users from multiple web sites (Moore: figure 1, 0005, 0027, 0029). One of ordinary skill in the art would have recognized that the second web-site is identical to that of first web-site.

However, Moore does not explicitly teach in the account server, validating the first website in response to receiving the first communication account request. In an analogous art, Miller teaches a server that validates a request in response to receiving a communication account request (col. 8, lines 47-58). At the time the invention was made, one of ordinary skill in the art would have been motivated to validate a website in response to receiving a request in order to process user's request automatically, thus allowing users to access the resource.

Regarding claim 101, Moore teaches the method of claim 100 wherein the communication service comprises a prepaid communication service [abstract].

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Regarding claim 102, although Moore does not explicitly teaches the method of claim 100 wherein the communication service is a wireless communication service, it would have been obvious to one of ordinary skill in the art that the teaching of Moore can be easily applied to wireless communication as well as wired.

Regarding claim 103, Moore teaches the method of claim 100 wherein the communication service comprises an internet access service [0044].

Regarding claim 104, Moore teaches the method of claim 100 wherein the first account code comprises a personal identification number (PIN) [figure 2].

Regarding claim 105, Moore teaches the method of claim 100 wherein the first account code comprises a password [figure 2].

Regarding claim 106, Moore teaches the method of claim 100 wherein the first communication account request identifies the first end-user and the second communication account request identifies the second end-user [0005].

Regarding claim 107, Moore teaches the method of claim 100 wherein the first communication account request identifies a first monetary amount and the second communication account request identifies a second monetary amount [0046].

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Regarding claim 108, Moore teaches the method of claim 100 further comprising, in the account server, selecting a first monetary amount for the first account code and selecting a second monetary amount for the second account code [0046].

Regarding claim 109, the Moore teaches the method of claim 100 further comprising, in the account server, selecting a first time amount for the first account code and selecting time amount for the second account code [0046].

Claims 110-119 are similar to claims 100-109, respectively, therefore are rejected under the same rationale.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

It is noted that the column, line, and/or page number citations used in the prior art references as applied by the Examiner to the claimed invention are for the convenience of the Applicant to represent the relevant teachings of the prior art. The prior art references may contain further teachings and/or suggestions that may further distinguish the citations applied to the claims, therefore, the Applicant should consider the entirety of these prior art references during the process of responding to this Office Action. It is further noted that any alternative and non-preferred embodiments as taught

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and/or suggested within the prior art references also constitute prior art and the prior art references may be relied upon for all the teachings would have reasonably suggested to one of ordinary skill in the art. See MPEP 2123.

The prior art listed in the PT0-892 form included with this Office Action disclose methods, systems, and apparatus similar to those claimed and recited in the specification. The Examiner has cited these references to evidence the level and/or knowledge of one of ordinary skill in the art at the time the invention was made, to provide support for universal facts and the technical reasoning for the rejections made in this Office Action including the Examiner's broadest reasonable interpretation of the claims as required by MPEP 2111 and to evidence the plain meaning of any terms not defined in the specification that are interpreted by the Examiner in accordance with MPEP 2111.01. The Applicant should consider these cited references when preparing a response to this Office Action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALINA N. BOUTAH whose telephone number is (571)272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. N. B./

Examiner, Art Unit 2143

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154